

planning supplement to background



Ministry of
Municipal Affairs
and Housing

Cover
Publ

The Honourable Claude Bennett
Minister

Ward Cornell
Deputy Minister

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KEEPING PACE :

THE PLANNING ACT 1983 - CONTINUING EVALUATION

Local
Government
Week



On August 1, 1984 Ontario's new Planning Act was one year old. The new Act was the product of seven years of review involving the development of proposals for change and extensive dialogue with municipalities and other interest groups. While much of the old Act was retained, a number of new features were introduced in order to keep pace with needs identified through the review process.

It was recognized that there would probably be some difficulties with interpretation or implementation of some parts of the new Act after proclamation. Therefore, the ministry continued to provide advice and assistance and conduct education sessions as required, and also instituted a Planning Act Continuing Evaluation Program (PACE). This program monitors the implementation of the Act through ongoing discussions of concerns and provides legal interpretations and other advice and assistance.

IN THIS ISSUE

Keeping Pace	1
The Niagara Escarpment Plan	3
Planning and the Law	3
Information Exchange	6
Conferences, meetings, seminars	9
News Flashes	10
People	12
Ed Cumming - in memoriam	14

As part of the PACE program, the ministry undertook an informal review of the implementation of the Act after its first year, in order to learn first hand of municipalities' experiences.

A series of meetings and personal interviews was conducted to allow for as free and open an exchange of information and views as possible. In selecting the municipalities and planning boards to be approached, care was taken to ensure a full geographic representation of the province, and a representation of municipalities of different size and type, including regions, counties and lower tier municipalities and planning boards both with and without ministerial delegation. In all, representatives from approximately 70 municipalities and planning boards were interviewed during August, September and October of 1984.

The representatives of all 70 municipalities were eager to discuss their experiences with the new Act. Notwithstanding some frustration with procedural changes, the Act has generally been well received in its first year and is considered to be working well for the most part.

Generally, the municipalities are pleased with such features as early articulation of provincial interests, the consistency of procedures for most planning applications and the greater local autonomy provided for in the new Act. The comments offered varied greatly and, in fact, the only two matters which appeared to be of interest to all municipalities are the notification requirements and the tariff of fees.

In addition, a number of technical issues were raised for consideration. The ministry is continuing its analysis of these and other interview results. It is also compiling a list of the questions raised and the answers to further assist municipalities and planning boards in dealing with the new Act.

The ministry wishes to thank all of those who participated in the interviews for their co-operation and for their thoughtful and interesting comments.

Questions on the new Act or requests for guidelines and other publications should be directed to:

The Local Planning Policy Branch
Ministry of Municipal Affairs and Housing
777 Bay Street, 13th Floor
Toronto, Ontario
M5G 2E5

Telephone: (416) 585-6225

THE NIAGARA ESCARPMENT PLAN

On July 31, 1984, the Provincial Secretary for Resources Development announced his recommended policies for the Niagara Escarpment Plan together with a proposed Planning and Implementation Process and his response to the Hearing Officer's Report.

Based on requirements contained within the Niagara Escarpment Planning and Development Act, public notice of the Provincial Secretary's recommendations was given and persons wishing to respond had until September 14th to do so. Cabinet is now in the process of considering some 300 submissions in anticipation of approving the plan in the early part of 1985.

The Ministry of Municipal Affairs and Housing has been asked to develop a program to deal with implementation of the plan. Together with Niagara Escarpment Commission staff, the Ministry is to be responsible for:

- . Ensuring conformity of local official plans and zoning by-laws with the Niagara Escarpment Plan.
- . Facilitating the delegation of development control to upper tier municipalities.
- . Reviewing the replacement of development control with zoning and site plan control.
- . Assisting and advising municipalities on plan implementation.

A special group has recently been set up within the Ministry to deal with these implementation tasks. Although more detailed information will follow, any preliminary questions that you may have should be forwarded to Mr. Paul Ross, Manager for the Niagara Escarpment Implementation Team at 585-6028.

PLANNING AND THE LAW

Our regular feature on legal and O.M.B. decisions.

METRO TORONTO GROUP HOME POLICY APPROVED

Under the Municipality of Metropolitan Toronto Act, area municipalities are required to bring their

official plans and zoning by-laws into conformity with the Metro plan "forthwith". This contrasts with the general provision in the Planning Act which merely prohibits the passing of any by-law which does not conform with the official plan.

The adoption of Amendment Number 3 to the Metro plan, requiring that the area municipalities recognize group homes as a permitted use in all residential areas, had very significant implications for the area municipalities. At the request of the Etobicoke council, the amendment was referred to the Ontario Municipal Board by the minister. The board held a hearing at which it also dealt with group home by-laws of several area municipalities and with appeals by a number of social agencies for an order directing Etobicoke to amend its zoning by-laws to give effect to the policy.

The board noted the provincial policy "de-institutionalizing" persons having special needs. To achieve this goal, the Province found it necessary to adopt a policy of encouraging municipalities to permit group homes in residential neighbourhoods. In Metropolitan Toronto the implementation of this policy has been very uneven and consequently group homes have tended to be concentrated in certain areas.

In its objection, Etobicoke claimed that the amendment went beyond encouragement to coercion and came very close to taking over the zoning function of the area municipalities. The municipalities of York and East York objected only to the provisions respecting correctional group homes. A "correctional group home" was defined to mean a home operated primarily for persons who have been placed on probation, released on parole or admitted for correctional purposes. The amendment proposed that correctional group homes should be restricted to "properties abutting arterial roads in certain residential areas". The board noted the lack of precision in the expression "certain residential areas" and pointed out that it could be interpreted to require pre-zoning or it could allow implementation through site-specific rezoning. The board referred without comment to a Court of Appeal decision in North York township in 1960, where "any defined area or areas" as used in the Planning Act was found to mean "a tract of land either large or small", even a single property.

After hearing all the evidence, the board found that there was surprisingly little separating the positions of the opposing parties. Etobicoke had prepared a draft by-law to permit group homes, except correctional group homes, throughout the municipality,

with certain exceptions. However, council had not passed the by-law, preferring to use it as a guide when considering each site-specific application to permit a group home.

On November 1, 1984, the board approved Amendment No. 3, with minor modifications developed during the course of the hearing with Metro's agreement.

Source: The board decision. File 0830083.

WEST GARAFRAXA APPELLANT ... ISN'T

A resident of West Garafraxa appeared at a municipal board hearing to oppose a consent decision which he had appealed. He was dismayed when his status as an appellant was questioned by the applicant's lawyer and even more dismayed when the board decided he had no status. He had, after all, submitted his appeal in writing together with the required fee and it had been accepted and forwarded.

In response to his subsequent written plea to the municipal board chairman, he was told on February 8, 1984 that the board had no alternative but to follow the wording of the Act. This would-be appellant was not, in the words of Section 52(8), "a person to whom notice of the decision was sent" and he was therefore not eligible to appeal. The board pointed out that the wording of Section 44(12) of the Act, dealing with minor variance decisions, only required an appellant to be "a person who has an interest in the matter".

Source: Ontario Municipal Board Reports
16 O.M.B.R. Part 1, August, 1984
Harris v Whittaker

Comment

The difference between the two definitions of an appellant is not due to an oversight. Consents, like subdivisions, are usually considered in relation to official plans and zoning by-laws which are already the subject of extensive public involvement. Accordingly, once the decision is made to give a consent, only those who are concerned with the division of the particular parcel of land should be notified and have appellant status. On the other hand, minor variances involve relief from zoning by-laws which may have an effect on the entire municipality or a significant part of it. Consequently, anyone who has an interest in the requested relief should be able to appeal.

INFORMATION EXCHANGE

At the Ontario Planners' Conference last October a meeting of long range planners encouraged the Ministry to co-ordinate an information exchange on current research. This is the result. Due to space limitations, not every submission has been included. Priority was given to reports which were thought most likely to be useful to other planning agencies. We wish to thank those who submitted information. The success of this initiative depends on your active participation. If you think the concept is worthwhile, please provide Lou Spittal with your input, on the standard summary forms.

1. A Discussion of Housing Directions for the Region of Peel, October, 1984
Department of Housing, Region of Peel

A 41 page presentation of a review of the present status of the municipal non-profit program and current housing issues as the basis for proposed new policy directions for assisted housing in Peel Region. The report examines the impact of Rental Housing Programs in Peel Region, the Role in Housing for the Region of Peel, the Need for Assisted Housing. The report then provides an evaluation of the Municipal Non-Profit Program and identifies Emerging Housing Issues.

Contact: Peter R. Smith, Commissioner of Housing

2. Planning Information Brochure, Second Edition
December, 1984 (cost: \$2.50)
Planning Department, Region of Peel

20 pages of statistical information about Peel Region and its area municipalities, the Cities of Brampton and Mississauga and the Town of Caledon. Headings include Population Growth, Vital Statistics, Age Structure, Family Characteristics, Ethnicity, Employment, Labour Force, Housing and Education Statistics. A basic source document to support program and policy planning and analysis, with many graphic presentations of the statistics.

Contact: Katherine Bladen, Manager, Socio-Economic Analysis Section

The Region of Peel also submitted information on: Screenline Cordon Count Program (1983), How to Increase the Use of Transit (1981), Truck Route Network Study (1981) and other transportation studies.

3. Energy Conservation through Land Use Study
September, 1984
City of Windsor Planning Department and
M.M. Dillon Ltd.

The final report consolidates the findings of a five phase study which commenced in June, 1982. Section I summarizes the background material on the natural and physical features of the community required to determine potential policy directions to encourage energy efficient development practices. It also describes the opportunities and constraints on implementation of specific conservation techniques. This is followed by a proposed strategy including policies, planning practices and guidelines. Section II of the report introduces the specific implementation features including an Official Plan amendment, zoning by-law amendments, and guidelines for energy efficient site design. It also offers suggestions for the involvement of the City's Energy Advisory Committee in implementing the strategy.

Contact: Bob Hayes, Principal Planner
(519) 255-6281

4. Windsor Sign By-law
January, 1984

A report prepared in response to Council's instructions to prepare a new sign by-law and consolidate all regulations respecting signs on private property into a single document.

Contact: Doug Caruso, Senior Planner
(519) 255-6281

5. Convenience Store Study
August, 1983
Planning Department, City of Windsor

The report concluded that the incidence and pattern of convenience store closings was as much a factor of location and an oversupply of total stores relative to the population served as it was to the impact of chains on independents. Vacant and derelict buildings did not seem to have been a large scale bi-product of the actions of chains locating in close proximity to independents. Rather, the number of stores which have been closed and have been demolished or which remain vacant indicate that it is the site itself which is unattractive for retailing.

The report recommended that no action be taken in regard to limiting the number and/or location of convenience stores but that the apparent over-supply of commercial land be addressed during the review of the City's comprehensive zoning by-law.

Contact: Doug Caruso, Senior Planner
(519) 255-6281

Windsor also submitted information on a Community Improvement Policy Study (1984).

6. Priority Lists for Recreational Development
August, 1983
Planning Branch, City of Ottawa

This document outlines the priorities for capital budget provisions for the development of parks and sports fields, the acquisition of lands for parks, renovations to existing recreational buildings, and construction of new recreational buildings. The Priority List of Parks is based upon evaluation criteria developed in 1979 to more readily differentiate the priority for up to 120 park projects.

These priority lists have been utilized since 1979 in establishing the capital budget for parks and recreational buildings.

Contact: John Cushing, Recreation Planner.

The City of Ottawa also submitted information on several other studies related to recreation.

7. North-East Scarborough Land Use Study: Natural and Environmentally Sensitive Areas Report
December, 1984
Scarborough Planning Department

The report contains a detailed description of the sixteen identified natural and environmentally sensitive areas in North-East Scarborough. The report is supplementary to the North-East Scarborough Land Use Study Background Report. 41 pages with maps.

Contact: Michael Manett, Senior Planner
(416) 296-7026

Scarborough also submitted the Scarborough Transportation Corridor Study (1984).

CONFERENCES-MEETINGS-SEMINARS

1. 4th ANNUAL BIA CONFERENCE - PROSPERITY AFTER PLANTING

The Ontario BIA Association is sponsoring the 4th Annual BIA Conference to be held in Toronto at The Westin Hotel, March 25-26-27, 1985. The purpose of the Conference is to provide a Provincial forum where all BIAs can meet and exchange ideas on issues which they may need assistance with for the development of their downtown core areas.

The Conference will cover: legislative issues, promotional ideas, beautification projects, parking programs, communication, downtown management, exhibits, dinner/awards night and much more!

The Conference has been expanded to three days to accommodate a National Day of BIA information sharing.

For more information call or write the Ontario BIA Association, 777 Bay St., 13th Floor, Toronto, Ontario M5G 2E5, (416) 585-6013.

2. COMPUTER SEMINAR - C.P.A.B., LONDON

On November 15, 1984 the London CPAB office hosted a seminar on the use of computers in planning offices. About 30 municipal planners attended to hear an overview of computer use in the province, considerations in buying a computer and the practical aspects of computer use in London, Sault Ste. Marie and the Region of Waterloo.

3. On January 9, 1985, the same office hosted a seminar on three successful municipal planning experiences: Owen Sound's waterfront development, the resolution of land use problems at the boundary between Guelph and Wellington County and Stratford's response to peripheral shopping centres.

4. BY-LAW ENFORCEMENT

A seminar on "Effective by-law enforcement" is planned for the end of February. Additional information may be obtained by calling the London office of the Community Planning Advisory Branch at (519) 673-1611.

5. BUILDINGS BRANCH SEMINAR - OTTAWA

On February 25, the Community Planning Advisory Branch in Ottawa is hosting a seminar at which Ontario Buildings Branch Director Dave Hodgson will present the structure and new initiatives planned for his Branch. The target audience is planners, building officials and interested elected officials. For additional information call (613) 566-3801.

6. O.A.P./M.M.A.H. LIAISON MEETING

The Ontario Association of Planners/Ministry of Municipal Affairs and Housing Liaison Committee is made up of representatives of various chapters of the Canadian Institute of Planners and of branches of the Community Planning Wing. It meets quarterly. On November 9, 1984, the topics discussed included the Ministry of Natural Resources' Wetlands Guidelines, an evaluation of the O.A.P. conference, upcoming amendments to the Planning Act and community improvement policies.

NEWS FLASHES

o **Airport Noise Update**

Ottawa - Noise Exposure Projection (NEP) contours are now available for the Ottawa International Airport. The projection date is the year 2000. One of the assumptions on which it is based is the construction of a third major runway. Both the 1988 NEF and the 2000 NEP contours should be consulted in applying the ministry's Land Use Policy near Airports.

Thunder Bay - New Noise Exposure Forecast (NEF) contours have been published by C.M.H.C. for the airport in Thunder Bay. The projection date is 1989. These contours replace the contours published in 1974 with a projection date of 1976+, for use with the ministry's policy.

o **Prescott-Russell Study of River Bank Development Constraints**

A study to investigate physical constraints to development along the Ottawa River is being funded jointly by two provincial ministries and the United Counties of Prescott and Russell. Natural Resources will contribute \$60,000, Municipal Affairs and Housing will toss in \$76,000 under its Community Planning Grant Program and \$24,000 will come from the United Counties. The study will establish slope stability and construction setbacks. For more information call Glen Tunnock at (613) 566-3801 (Ottawa).

o **Waterloo Studying Opportunities**

The Region has received a planning grant from the Minister to be used to investigate the economic opportunities within the Region and the ability to promote them through the policies of the Regional Official Plan. The funding will also assist the Region's positive effort to ensure Provincial interests are adequately protected throughout the regional municipality. Waterloo Region is one of only two regions in the Province delegated official plan approval authority. For more information contact your local Community Planning Advisory Branch Field Office or Pat Vanini, at (416) 224-7635.

o **They Are Doing It, Do You Need To?**

Hamilton-Wentworth is conducting a study of the industrial sector of the local economy. The Region's goal is to identify and take advantage of the opportunities available for industrial growth. A Community Planning Grant has been committed to assist the investigation of the land use analysis component of the study. Among other things, it is to determine the land use requirements of different industries, to assess the effectiveness of industrial land banking and to examine potential development standards in the context of both development control documents and actual firm behaviour. Pat Vanini at (416) 224-7635 can provide further information.

o Dog Lover's Condo

The Bow Wow Mansion is one of two condos built by Osaka developer Nariki Nakatsuka that requires each owner to have at least one dog. Each unit in the parkside garden apartment is equipped with a "dog shower" and the buildings include a restaurant serving dog food as well as a beauty parlor for pets. We suppose that cats are also permitted. The dog lovers' condo represents a marketplace reaction to the bylaws of most condo associations that prevent occupants from keeping pets other than birds and tropical fish. Their common interest in canines has made the condo owners a congenial lot. It is already evident that Nakatsuka-san is not barking up the wrong tree.

This Japanese scoop appeared in "Urban Innovation Abroad", a U.S. publication which frequently describes Ontario initiatives.

o Romantic Atmosphere for Public Meeting

A township in southern Ontario scheduled a public meeting to discuss a proposed zoning by-law. Shortly before the appointed hour, the lights went out: a power failure! Township officials were concerned that in order to comply with the Act they would have to send out new notices and wait another 30 days if the meeting was not held as scheduled, so they quickly found some candles and held the meeting by candle-light. In discussing the matter later with ministry staff, it was agreed that, as an alternative, it would have been O.K. to take the names of all the people arriving for the scheduled meeting and to notify them of a subsequent meeting, which could have been in less than 30 days, provided the scheduled meeting was officially opened and adjourned.

PEOPLE

- Sally Thorsen is the new Commissioner of Planning and Development for the Region of Waterloo, succeeding Bill Thomson. Sally's successor in Cambridge had not yet been named at press time.

- Oxford County's new Planning Commissioner is Ken Whiteford who was previously planning director for the County of Perth. His successor in Perth is David Hanly, who was Ken's assistant.
- Ned Lathrop is now the Commissioner of Planning and Development for the Township of Cumberland. Pamela Sweet succeeded Ned as Director of Planning for the Township. Pam is currently the President of the Canadian Institute of Planners.
- John Lang has joined Minto Construction Limited in Ottawa. He was previously a consultant operating out of Brockville.
- After ten years with Project Planning Associates, Brian Manning is now Senior Planner responsible for the east-central region with Underwood-McClellan Ltd.
- Pauline Morris is now Acting Director of the Plans Administration Branch - North and East. She was previously a manager in that branch.
- Barry Gardiner has left the Local Planning Policy Branch to take up a position as manager in the Management Board of Cabinet. Ron Kennedy is now Acting Manager in Barry's former position.
- George Przybylowski, previously with the Housing Renovation and Energy Conservation Unit of the Community Housing Wing, is now a special advisor to the minister.
- Barry Crowe has been seconded for six months from the Community Planning Advisory Branch to the Realty Services Branch of the Ministry of Government Services, where he will work on the Land Management Program. Pat Vanini will replace Barry and Ann Borooah will take over Pat's responsibilities at the C.P.A.B. Central Region.
- Gerry Fitzpatrick, manager in the Local Planning Policy Branch and John Livey, manager in the Plans Administration Branch, have exchanged jobs for about nine months.
- Don Morse has joined the Sudbury office of the Community Planning Advisory Branch where he will be dealing primarily with the districts of Cochrane and Nipissing. Don comes from the South Peace Regional Planning Commission in Alberta and worked previously for an Ottawa based consultant.
- Pat Boechner has moved from the Niagara Escarpment Commission in Georgetown to the Ottawa C.P.A.B. office.

Ed Cumming

Ed Cumming was one of the pioneers of planning in Ontario. When he came to North York from Windsor in 1952 as administrator of the zoning by-law, he was already an experienced planner, having previously worked for Dr. Faludi, where he participated in the preparation of North York's first comprehensive zoning by-law. He took an early interest in the preservation of valley lands and carried that interest to the Metropolitan Toronto Planning Board when that board was formed in 1954. The preservation of the valley system is one of the metro board's major achievements. Two years later he became Director of Planning for the Oakville and Trafalgar Planning Board and from 1974 to 1979 he was Commissioner of Planning for the Region of Halton. He retired to Southampton and enjoyed his hobbies of painting and little theatre. His many friends were saddened to learn of his death last November after a short illness.

The next issue of the Planning Supplement to Background is scheduled to appear in mid-April. If you have information for our "People" column, please call Pierre Beeckmans at (416) 585-6257 or drop him a line at

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